

W. D. Silva v. Department of Government Printing

RTIC Appeal(In-Person) /168/2018 - Order under Section 32 (1) of the Right to Information Act, No 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure) – heard as part of a formal meeting of the Commission on 18.05.2018

Chairperson: Mahinda Gammampila
Commission Members: Kishali Pinto-Jayawardena
S.G. Punchihewa
Dr Selvy Thiruchandran
Justice Rohini Walgama
Present: Director-General Mr Piyathissa Ranasinghe

Appellant: Mr W D Silva
Notice Issued to: Designated Officer, Department of Government Printing

Appearance/ Represented by:

Appellant - Mr W D Silva
Public Authority - -

RTI Request filed on	20.10.2017
IO responded on	09.11.2017
First Appeal to DO filed on	24.11.2017
DO responded on	No response
Appeal to RTIC filed on	23.01.2018

Brief Background Facts

The Appellant had requested the following items of information, by an information request dated 20.10.2017

Information relating to the printing of ballots for the 108th Elections at the Annual General Meeting of the Government Officers' Benefit Association

1. The number of ballet papers printed for the post of the President
2. The number of ballet papers printed for the post of the ice President
3. The number of ballet papers printed for the post of Governing Members
4. The number of detachable coupons printed (with 5 detachable slips)
5. Date of handing over the all printed material to the Organization/Person
6. If all printed material was handed over to a Person, the name of Person
7. If all printed material was handed over to an Organization , the name of such Organization
8. Were these material handed over in sealed covering?
9. Or were these material handed over in parcels?
10. The amount paid to the Department of Government Printing for printing the above mentioned material

The Appellant received a response from the IO by a letter dated 09.11.2017 denying granting of requested information under section 5 of the Act stating that the information requested was confidential in nature. Dissatisfied with the response, the Appellant appealed to the DO on 24.11.2017 to which the DO failed to respond. Citing the failure to respond, the Appellant preferred an appeal to the Commission on 23.01.2018

Matters Arising During the Hearing

The Appellant Submitted that the PA was tasked with printing ballet papers for the 108th Elections at the Annual General Meeting of the Government Officers’ Benefit Association and alleged that there was fraud involved in printing of ballet papers as more numbers had been printed without proper authorization.

The PA submitted that this concerned a third party i.e. Government Officers’ Benefit Association and as such the information could not be provided.

Order:

The PA is directed to reconsider whether it can provide the information.

The Appeal is adjourned.

Next date of hearing: 10.07.2018

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2017 (Fees and Appeal Procedure) – heard as part of a formal meeting of the Commission on 10.07.2018

Chairperson: Mr Mahinda Gammampila
Commission Members: Ms Kishali Pinto-Jayawardena
Mr S.G. Punchihewa
Dr Selvy Thiruchandran
Justice Rohini Walgama
Present: Director-General Mr Piyathissa Ranasinghe

Appellant: Mr W D Silva
Notice Issued to: Designated Officer, Department of Government Printing

Appearance/ Represented by:

Appellant - Mr W D Silva
Public Authority - Mr W D A Bandula – Information Officer (Temporary)

Matters Arising During the Hearing

On questioning the PA as to the reason for denial of the information, the PA submitted that the printing order was given to the PA by the Government Officers’ Benefit Association and it therefore amounts to confidential information. The Commission noted that “confidential information” is not of itself an exemption under the Act and section 5(1)(b) as stated by the PA could not be relied upon.

Order

A PA may only deny information under Section 5 (1) (i) of the RTI Act once it has complied with the requirements imposed by Section 29(1) of the Act, i.e. if the relevant third party (Government Officers’ Benefit Association) has in writing refused to consent to the disclosure of the information.

Section 29(1) of the Act states as follows;

“Where a request made to an information officer by any citizen to disclose information which relates to, or has been supplied by a third party and such information has been treated as confidential at the time the information was supplied, the information officer shall, within one week of the receipt of such request, invite such third party by notice issued in writing, to make representation for or against such disclosure, within seven days of the receipt of the notice.”

The PA is directed to notice Government Officers' Benefit Association in writing, to make representations for or against the disclosure of requested information.

Attention of the PA is drawn to the fact that the Government Officers' Benefit Association is required to comply within seven days of the receipt of the notice by the PA. If the Government Officers' Benefit Association (the third party) consents to the disclosure the PA would be required to disclose the information under and in terms of Section 29 (1) . Upon the failure of the third party to respond or the refusal of consent the public interest in the disclosure of the information will be assessed. The PA is accordingly directed to revert to the Commission.

The Appeal is adjourned.

Next date of hearing: 21.08.2018
